

Hearing Date: March 18, 2010  
Hearing Time: 10:00 a.m. (prevailing Eastern time)

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
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DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Reorganized Debtors.	:	(Jointly Administered)
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REORGANIZED DEBTORS' SUPPLEMENTAL REPLY WITH RESPECT TO  
PROOF OF ADMINISTRATIVE EXPENSE NUMBER 17863 (ROBERT E. DETTINGER)

("SUPPLEMENTAL REPLY – ROBERT E. DETTINGER")

DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (collectively, the "Reorganized Debtors"), hereby submit this Supplemental Reply With Respect To Proof Of Administrative Expense Number 17863 (Robert E. Dettinger) (the "Supplemental Reply") and respectfully represent as follows:

Preliminary Statement

1. On October 8 and 14, 2005 (the "Petition Date"), Delphi Corporation and certain of its affiliates (collectively, the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended.

2. On July 6, 2000, Robert E. Dettinger, a retired employee of the Debtors, filed proof of administrative expense number 17863 (the "Administrative Claim") against Delphi Corporation. The Proof of Claim asserts an administrative expense claim in the amount of \$289,538.39 for benefits arising under Delphi Corporation's Supplemental Executive Retirement Program ("SERP") (the "Claim").

3. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered by this Court on July 30, 2009 (Docket No. 18707), and emerged from chapter 11 as the Reorganized Debtors.

4. On October 15, 2009, the Reorganized Debtors objected to the Administrative Claim pursuant to the Reorganized Debtors' Thirty-Seventh Omnibus Objection Pursuant to 11 U.S.C. § 503(b) and Fed. R. Bankr. P. 3007 to Expunge Certain (I) Prepetition Claims, (II) Equity Interests, (III) Books and Records Claims, (IV) Untimely Claims, (V) Paid

Severance Claims, (VI) Pension, Benefit and OPEB Claims, and (VII) Duplicate Claims (Docket No. 18984) (the "Objection"), seeking entry of an order disallowing and expunging the Administrative Claim because it was not owing by the Reorganized Debtors pursuant to their books and records.

5. On November 2, 2009, Mr. Dettinger submitted a letter in response to the Objection (Docket No. 19032) (the "Response"), asserting that (a) on February 4, 2009 this Court had "adjudicated and recognized" his claim number 16722 in the amount of \$289,538.39 and (b) a letter dated February 5, 2009 from Delphi stated that "Delphi's decision to stop SERP payments will not affect your settlement," meaning the adjudication of his claim number 16722.

6. On January 12, 2010, the Reorganized Debtors filed the Notice of Hearing With Respect To Debtors' Objection To Administrative Claim No. 17863 (Robert E. Dettinger) (Docket No. 19306).

7. On January 20, 2010, the Reorganized Debtors filed their Statement Of Disputed Issues With Respect To Administrative Claim Number 17863 (Robert E. Dettinger) (Docket No. 19346). Mr. Dettinger has not filed any subsequent pleadings regarding the Administrative Claim.

#### Argument

8. Mr. Dettinger has failed to provide sufficient evidence to support his claim and establish that the Debtors owe an outstanding liability to him in the amount asserted in the Administrative Claim. The burden is on the claimant asserting an Administrative Claim to prove by a preponderance of evidence that the allowance of the Administrative Claim is justified. See In re United States Lines, Inc., 103 B.R. 427, 430 (Bankr. S.D.N.Y. 1989); In re National Steel Corp., et al., 316 B.R. 287, 300 (Bankr. N.D. Ill. 2004); Solow v. American Airlines (In re

Midway Airlines), 221 B.R. 411, 446 (Bankr. N.D. Ill. 1998); In re Alumni Hotel Corp., 203 B.R. 624, 630 (Bankr. E.D. Mich. 1996). Here, Mr. Dettinger has not met that burden.

9. The Reorganized Debtors have reviewed the information attached to the Administrative Claim and the Response and dispute that they owe the amount asserted in the Administrative Claim for SERP benefits.

10. First, the Administrative Claim is duplicative of proof of claim number 16722, which was filed by Mr. Dettinger on January 9, 2008 and has been ordered modified by this Court. On December 22, 2008, the Debtors objected to proof of claim number 16722 pursuant to the Debtors' Thirty-Third Omnibus Objection Pursuant To 11 U.S.C. § 502(b) And Fed.R.Bankr.P.3007 Regarding (A) SERP Claims And Scheduled Liabilities Subject To Modification, (B) Duplicate Or Amended SERP Claims, (C) Claims Subject To Modification, And (D) Claim To Be Expunged Pursuant To Settlement (Docket No. 14619) (the "Thirty-Third Omnibus Claims Objection"), seeking to modify it to the amount of \$289,538.39. Mr. Dettinger did not file a response to the Thirty-Third Omnibus Claims Objection, so on January 27, 2009, this Court entered the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 Regarding (A) SERP Claims And Scheduled Liabilities Subject To Modification, (B) Duplicate Or Amended SERP Claims, (C) Claims Subject To Modification, And (D) Claim To Be Expunged Pursuant To Settlement, As Identified In Thirty-Third Omnibus Claims Objection (Docket No. 14673), reducing proof of claim number 16722 to a general unsecured non-priority

claim in the amount of \$289,538.39 against Delphi Corporation, subject to further objection by the Debtors.<sup>1</sup>

11. Second, because the Administrative Claim asserts liabilities for SERP benefits arising before the Petition Date, those liabilities are prepetition claims and are not entitled to treatment as administrative claims. For these reasons, the Administrative Claim should be disallowed and expunged in its entirety.

12. For all the reasons discussed above, the Debtors are not liable to Mr. Dettinger for the Administrative Claim.

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<sup>1</sup> By operation of article 1.9 of the Modified Plan, proof of claim number 16722 became an allowed claim in the amount of \$289,538.39 as of February 3, 2010, the deadline pursuant to article 1.31 of the Modified Plan for the Reorganized Debtors to further object to modified claims asserting prepetition liabilities.

WHEREFORE the Reorganized Debtors respectfully request that this Court enter an order (a) disallowing and expunging the Administrative Claim in its entirety and (b) granting the Reorganized Debtors such other and further relief as is just.

Dated: New York, New York  
February 18, 2010

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